
Costs Decision

Site visit made on 22 January 2020

by JP Tudor BA (Hons), Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 06 February 2020

Costs application in relation to Appeal Ref: APP/H1840/D/19/3238570 Trevose, 36 Greenhill, Evesham, Worcestershire WR11 4LR

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr John Fisher for a full award of costs against Wychavon District Council.
 - The appeal was against the refusal of planning permission to remove the boundary wall adjoining the pavement and insert a new drop kerb outside front of property.
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Decision

1. The application for an award of costs is refused.

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.¹
3. Referring to examples of unreasonable behaviour given in the PPG, the applicant submits that the Council has behaved unreasonably by preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations. Furthermore, that it has made vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by objective analysis.²
4. The applicant's submissions essentially relate to the merits of the proposal which are discussed within the main appeal decision. Therefore, I will not repeat that analysis in detail here.
5. As in the main appeal, the applicant says that the proposal and submitted plans clearly demonstrate that there would be enough turning/manoeuvring space within the parking area to enable vehicles to exit in forward gear. However, the Council advises that the relevant drawing was not considered to be a realistic representation of the manoeuvrability of a full-sized car within a parking area 6 metres wide. That also appears to have been the opinion of the highway authority, Worcestershire County Council, who indicated that it had objected to the proposal and recommended refusal, following a robust assessment of the planning application.

¹ Paragraph: 030 Reference ID: 16-030-20140306

² Paragraph: 049 Reference ID: 16-049-20140306

6. In my view, the Council exercised its professional planning judgement regarding that aspect, which it is entitled to do, while also taking account of the advice of the highway authority, who can reasonably be regarded as having some expertise in highway matters. Therefore, while I appreciate that the applicant takes a quite different view from the Council and the highway authority on the matter, that does not indicate that the Council has behaved unreasonably.
7. As explained in the main appeal decision, I do not agree with the applicant's view that a statement in an email from the Council, relating to the previous application³, indicated that it was of the opinion that *'there would likely be sufficient space for vehicles to turn on site.'* Rather, it stated that it would need to be demonstrated within the submitted plans. While plans were submitted, as the Council has explained, it did not consider them to be a realistic representation of the turning capability of a vehicle. Therefore, there is no inconsistency in the Council's approach.
8. Several points made in the appellant's main appeal submissions, are reiterated within the application for Costs, including with regard to visibility, existing dropped kerbs, an alleged lack of evidence that reversing out would prove detrimental to highway safety, the absence of specific dimension requirements for turning spaces for vehicles and reference to parking space and carriageway widths in the 'Streetscape Design Guide'. These have been dealt with in the main appeal decision and do not indicate individually or cumulatively that the Council has behaved unreasonably.
9. The following extract from the Council Officer's Report is cited by the applicant: *'A drawing has been provided showing a car doing a 3 point turn manoeuvre [sic] on the submitted plans. However, the proposed area of hard standing, which the dropped kerb crossing would give access to, is to be 6m wide and would be of limited space to turn a car. Despite the plans showing the ability to turn on the site it is still considered to be an insufficient space and as such a danger to Highways [sic] safety.'*
10. The applicant contends that the above extract represents a generalised and inaccurate assertion that is not supported by any objective analysis. However, it seems to me that it is a reasonably considered, albeit succinct, explanation of the Council's judgement that, notwithstanding the submitted plans, the 6m wide area is still considered to offer limited or insufficient space to turn a vehicle. Therefore, I do not agree with the applicant's contention.
11. The previous application, referred to above, was refused on 21 June 2019, for the same reasons. However, aside from the new drawings which the Council and the highway authority found unrealistic, the appeal scheme remained the same. Therefore, it is not surprising that the Council refused for the same reasons, given that nothing fundamental had changed.
12. While there is a difference of opinion between the main parties, the Council has sufficiently explained its professional view, which is supported by the relevant highway authority. Ultimately, I came to the same conclusion as the Council in the main appeal decision. However, even if I had found otherwise, the Council's behaviour in exercising its planning judgement, adequately explaining

³ 19/00587/HP

its reasons with reference to relevant policies, having considered advice from the highway authority, would not have amounted to unreasonable behaviour.

Conclusion

13. For the reasons set out above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Therefore, no award of costs is made.

JP Tudor

INSPECTOR